



Larry M. Weil, Planning Director
Steven Zimmer, Senior Planner

West Fargo Planning and Zoning Commission
October 22, 2007 at 7:00 P.M.
West Fargo City Hall

Members Present: Frank Lenzmeier
Kim Keller
Ross Holzmer
Terry Potter
Wayne Nelson
Jason Gustofson
Harriet Smedshammer

Members Absent: Ross Holzmer

Others Present: Larry Weil, Lisa Sankey, Brock Storrusten, Bernie Dardis, Cindy Bartholomay, Ken Zetocha, Kyle Comacho

The meeting was called to order by Chair Lenzmeier.

Commissioner Potter made a motion to approve the October 8, 2007 meeting minutes as printed. Commissioner Keller seconded the motion. No opposition. Motion carried.

Chair Lenzmeier opened public hearing A07-54 Conditional Use Permit for an off-premise sign and Variance to increase sign height from 8' to 14' 6" for proposed Park District sign located at 500 13th Avenue West (S½ of Section 7, T139N, R49W - North Elmwood Park), City of West Fargo, North Dakota.

Larry Weil reviewed the following information from the staff report:

The property is located on the north side of 13th Avenue West, east of 8th Street West. Recently a business, which is replacing their existing freestanding sign, donated their animated message center to the West Fargo Park District. The applicant is applying for a CUP for a freestanding sign with off-premise advertising and an animated message center.

Park facilities are permitted uses in the Public Facilities Zoning District. Off premise signs are considered conditionally permitted uses in the Public Facilities Zoning District. The applicant has submitted site plans showing the size and location of the proposed sign, as well as a letter addressing the variance criteria. The proposed variance would be to allow the applicant to exceed allowable height for proposed signage. The sign is proposed to be 14 ½' in height. The maximum height allowed in Public Facilities District is 8'.

The applicant has submitted a site plan for the proposed signage. The property is surrounded by park property. The proposed sign is 96 ft² and 14', six inches tall and per the applicant would be located approximately 60' from the front property line and 60' from the west property line.

With regards to the criteria for granting a conditional use permit, the following is noted:

1. Ingress and egress to the property are from 13th Avenue West.
2. Off-street parking and loading facilities are located on the south side of the property and are accessed from 13th Avenue West.
3. The economic, noise, glare, or odor effect of the proposed use on adjoining properties and properties generally in the district does not appear to be an issue.

4. Refuse and service areas and utilities would generally not be an issue.
5. Screening and buffering is not required under the Zoning Ordinance for park facilities.
6. The applicant proposes installing a 96 square foot sign with off-premise advertising.
7. Soil conditions appear to be in order for the proposed development.
8. There are no yard and open space requirements for the proposed use.
9. The proposed use is viewed as generally compatible with the uses on adjacent property and other property in the district, though the noise and potential traffic on residential streets is cause for concern.

Variances are only to be granted when the following can be demonstrated:

1. That special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same district;
2. That literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Ordinance;
3. That the special conditions and circumstances do not result from the actions of the applicant;
4. That granting the variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to other lands, structures, or buildings in the same district.

It does not appear the variance can be justified as none of the criteria listed above are met. There are no special conditions and circumstances that exist with the property or buildings that are not applicable to other lands or buildings in the same zoning district. The property owner is not being deprived of rights being enjoyed by others because of the ordinance provisions. The conditions and circumstances do result from the actions of the applicant. If the variance would be granted, the applicant would benefit from a special privilege that would not be provided to other lands, structures, or buildings in the same district.

This building is a destination place and does not attract patrons on an impulse or spur-of-the-moment basis, which makes signage less important for attracting patrons than advertising events to passers-by. Allowable sign area and height are less in Public Facility Districts because many times they are located in or adjacent to residentially zoned neighborhoods and smaller signs have less of an impact on these neighborhoods.

Notices were sent to adjacent property owners within 350' and to City departments.

It is recommended to approve the conditional use request on the basis that it will be consistent with City plans and ordinances; however, denial of the variance is recommended on the basis the proposed freestanding sign improvements do not meet the criteria to justify the variance.

Ken Zetocha, West Fargo Park District, stated that they have a need for this sign, a sign this size. He stated that it won't impede visibility because of the setback. They don't feel it affects any residential area. It could be used to announce events, cancellations. Rather than putting up portable signs to advertise events, they'd prefer something more permanent.

Bernie Dardis, Indigo Signs, stated that when he procured the sign, he met with the Park District, Bank and Planning Department. Originally they were going to put the sign further to the west near the ball diamonds and had gotten initial approval for that site, only to find out that the property was zoned residential. So Barb agreed to move the sign back and closer to Park District offices.

Commissioner Gustofson stated concern with possible vandalism of the sign due to the setback and proximity to the skateboard park. He asked about the zoning to the west.

Larry stated that a few years ago when the Park District rezoned all park properties to public facilities, they didn't include the ball diamonds, which has a separate legal description.

There were no other comments from the public. The hearing was closed.

Commissioner Keller stated concern with the Park District requesting another variance for a sign. She indicated there was one at the Veteran's Memorial Arena where there was public concern, one at the soccer complex and now this one. She asked if we're giving special consideration because it's the Park District.

Commissioner Gustofson asked where the 8' limitation came from. Discussion was held regarding the public facility district and proximity to residential districts. Larry stated that schools, parks, churches, public works signs would all be considered "institutional signs"

Discussion was held regarding public vs. commercial signs. Commissioner Keller asked about changing the ordinance. Larry stated that staff could look at increasing the height limitation to what's "reasonable" or change the ordinance to review height beyond a certain height as a conditionally permitted use and tie conditions to it such as setback, etc. He stated that the school district has made similar requests, but when told what the regulations are regarding height, have stayed within those guidelines. Commissioner Smedshammer stated that schools are primarily located in residential districts.

Chair Lenzmeier asked how time consuming, costly would it be to change the sign regulations. Larry stated that if staff initiated the zoning ordinance amendment, costs would involve publishing the hearing notices.

Commissioner Gustofson asked what would be a reasonable height for public facilities. Mr. Dardis stated that most properties it's 25' unless it's an overlay and that's at the property line. If the sign is set back, then the sign height can increase. He described Fargo's sign height regulations and indicated he has numerous requests from public entities for donated signs.

Larry stated that with any application there needs to be a basis for the decision within the bounds of the criteria laid out. If we continue to approve variances, we are legally vulnerable. If 8' is too restrictive, he would rather see the ordinance changed instead of granting variances. Discussion was held regarding approving the variance on the basis that changes would be made to the zoning ordinance regarding signage.

Commissioner Nelson made a motion to approve the conditional use permit and variance on the basis of the setback and distance from residential properties. Commissioner Gustofson seconded the motion. No opposition. Motion carried.

Commissioner Nelson made a motion to instruct staff to bring back a zoning ordinance amendment to the sign regulations regarding signs for public facilities. Commissioner Keller seconded the motion. No opposition. Motion carried.

Mr. Dardis stated that he is willing to provide staff with any assistance as they have numerous city codes on file at their office.

Chair Lenzmeier opened public hearing A07-55 Goldenwood 4th Addition, a replat of Lots 1-6, Block 1 of Goldenwood 2nd Addition, City of West Fargo, North Dakota.

Larry reviewed the following information from the staff report:

The property, which is located north of 12th Avenue NW and west of Cass County Highway #17, was originally platted and zoned for single family development in September of 2003 and replatted and zoned for a twin home development in May of 2005. The applicant proposes replatting 6 lots into 5 single family lots. The proposed development is consistent with the City's Land Use Plan which depicts the area as Low Density Residential.

The developer has submitted an area plan and Preliminary Plat for residential development. The Land Use Plan of the City's Comprehensive Plan depicts the area north of 12th Avenue NW and between Cass County Highway #17 and the Sheyenne River as Low Density Residential. The proposed development is consistent with the Land Use Plan. The Preliminary Plat proposes taking six single family lots which were intended for single family attached dwellings (twin homes) and reducing the number of lots to five to accommodate single family detached dwellings. The lots vary in size from about 10,300 ft² to about 13,200 ft².

As proposed all the lots will then meet the minimum 50 foot lot width requirements for the R-1 zoning districts. The lots along 12th Avenue NW are greater in depth to provide for buffering because of the impact of the major streets and higher intensity land uses across the streets. A 60-foot buffer easement is being maintained with a 4-6 foot berm and trees as originally approved which would provide for year around buffering. Covenants should be updated if necessary for the lots and continued care and maintenance of the buffer areas. The streets were platted previously with adequate rights-of-way provided. A revised drainage plan needs to be developed for the subdivision.

City Departments and the Post Office were notified. The only comment received was that there would be a need to abandon

one service connection as the number of lots is being reduced.

Staff recommends approval with the following conditions:

1. An Attorney Title Opinion is received.
2. A revised drainage and utility plan is received and approved by the City Engineer and Public Works Director.
3. A certificate is received showing taxes being current.
4. Restrictive covenants are updated if necessary to address the changed lots and care and maintenance of the buffer areas.
5. Necessary easements are placed on the Final Plat.
6. A sidewalk plan is received.

There were no comments from the public. The hearing was closed

Commissioner Nelson made a motion for approval based on staff recommendations. Commissioner Potter seconded the motion. No opposition. Motion carried.

Chair Lenzmeier opened public hearing A07-56 Gateway 2nd Addition, a replat of Lots 1 & 2, Block 1 of Gateway 1st Addition and Lots 1 and 2, Block 1 of Knutson's 2nd Addition, City of West Fargo, North Dakota and Planned Unit Development Amendment for expansion of grain equipment business on Lot 1 and Part of Lot 2 of Knutson's 2nd Addition (2210 West Main Avenue) City of West Fargo, North Dakota.

Larry reviewed the following information from the staff report:

The property is located along the West Main Avenue Frontage Road, West of 21st St NW. The applicant owns two lots and proposes subdividing a portion of one of the lots and selling it to the adjacent property owner. Earlier this year a plat for Gateway 2nd Addition was reviewed and approved for the adjacent property owner; however the plat has not been recorded, so both areas are being combined into the same plat at this time. Part of the lot being split for sale is zoned Planned Unit Development and the remaining portion is zoned Heavy Commercial/Light Industrial. The proposed light industrial uses are consistent with plans and ordinances.

The applicant has submitted a subdivision replat to split a portion of the east lot to sell to the adjacent property owner. Also, Detailed Development Plans were submitted to expand the grain equipment business. As a result of an earlier subdivision plat for Gateway 2nd Addition not being finalized and recorded yet, it would be appropriate to combine the two subdivision plats into one. The Area Plan reflects the development pattern in the area. The area is developing with industrial uses as part of a private industrial park.

The Preliminary Plat provides for three lots. Lot 1 has a small structure which was used by a fireworks business and was recently sold to the existing grain equipment business. Lot 2 is currently being developed for a trucking company and additional lease space. Lot 3 is property owned by the City which is a left-over piece from property purchased for frontage road right-of-way and not adequately sized to accommodate any development. Lot 1 is over 101,000 square feet and lot 2 is about 222,500 square feet.

The right-of-way shown for the Main Avenue frontage road segment along the south side of the two businesses is 80'. The established right-of-way dedication standard for the Main Avenue frontage road is 100' as the street is intended to be a collector street. An additional 20' should be provided from the property to the south which is owned by the City. The existing frontage road currently located to the south of this property will be relocated within the proposed platted right-of-way. The frontage road changes would be used to provide access between 21st St NW and the lots located to the west. The purpose would be to move the intersection of the frontage road and 21st Ave NW farther to the north to minimize traffic issues associated with accessing Main Avenue.

The split parcel being added to Lot 2 is 50' in width and is currently zoned Planned Unit Development which does not correspond to the zoning on the remainder of the lot. It would be appropriate to rezone this parcel to CM: Heavy Commercial/Light Industrial as it is the smaller portion of the property. The rezoning hearing can be scheduled for the next regular Planning and Zoning Commission meeting. There is currently an off premise billboard sign within the proposed right-of-way which will be required to be moved when the street is constructed. Park dedication was taken care of when the area

was originally platted.

The Detailed Development Plans for the expansion of the grain equipment business show a 90' x 200' building addition (18,000 square feet) to the north side of the existing building. The site plans shows 10' of landscaped area with trees along the south side of the parking lot. Six trees are shown which would be adequate for the width of the lot. The remaining landscaped areas should be shown on the site plan meeting 10% of the lot or 10,134 square feet. Also, a 5-foot side yard setback is required on the west side of the parking lot which needs to be landscaped. The parking lot needs to be paved and the storage/display areas need to be screened from public view along Main Avenue/I-94. The existing building is proposed to be altered in front by expanding the windows which is intended to meet the exterior building material requirement of no more than 70% metal or fiberglass. With these changes the plans would meet the established PUD and Corridor Overlay District requirements.

The applicant has requested that sewer and water services be planned for the area. The City will need to establish an improvement district and address the timing of installation of the services. Notices were sent out to city departments and neighboring property owners. We received one comment regarding the storage and display of materials on an unimproved surface resulting in rutting and weed growth. Also, there is a 20-foot utility easement affecting the west 60' of Lot 2 which should be relocated to the west property line. The easement was established along borders of previous plats. The property owner would be responsible for any costs associated with the relocation of any utilities.

It is recommended to conditionally approve the subdivision plat and conditional use request on the basis that the request is consistent with City plans and ordinances. The recommended conditions are as follows:

1. An Attorney Title Opinion is received.
2. A certificate is received showing taxes being current.
3. A drainage plan is received and approved by the City Engineer and Public Works Director.
4. The Main Avenue frontage road right-of-way is increased from 80' to 100'.
5. Revised site and elevation plans are provided to address the issues discussed above.
6. Existing easements are relocated if necessary and other necessary easements are placed on the Final Plat.
7. The property being subdivided and integrated into Lot 2 is rezoned.
8. A Planned Unit Development agreement is obtained.
9. Agreements/arrangements are made regarding the removal of the billboard sign in a timely manner.

There were no comments from the public. The hearing was closed.

Larry stated that the applicant has provided a time schedule for improvements and is looking at starting construction immediately. They propose a completion date of early spring; however, the concrete parking areas are not proposed to be completed until October of 2008. He stated that he's concerned with the delay as the parking areas are supposed to be improved and should have been done a long time ago.

Chair Lenzmeier stated concern with the display area, as well as with the time frames for completion of the project.

Larry stated that the front needs to be hard surfaced, the rear and side yards used for storage can be crushed concrete.

Kyle Comacho from Prairie Design and representing the applicant stated that they plan to revise the construction schedule. Commissioner Gustofson stated that they could get the parking taken care of today since nothing to the front of the property is changing.

Assistant Engineer Brock Storrusten mentioned the distance from City services and the possibility of using the septic system. Mr. Comacho stated that he spoke with Building Inspector Mark Housh who indicated a sprinkler system probably wasn't necessary.

Discussion was held regarding extending City services and the high costs involved.

Chair Lenzmeier stated that the Planning and Zoning Commission scheduled a special meeting to fast track this item and it sounds as if there are still some unresolved issues. Mr. Camacho stated that he was brought in on this project last week and is

still gathering information. He asked about timeframes for approval as they would like to get a building permit as soon as possible. Larry stated that the City Commission could review the final plat next week. He suggested that the schedule be modified -- tightened up, with more detail.

Brock stated that Qwest is using the utility easement and the property owner is okay with its current location.

Chair Lenzmeier stated that it appears the items to be addressed include the construction schedule and the sign. Commissioner Gustofson stated that the parking should be addressed as soon as possible

Discussion was held regarding the Corridor Overlay requirements. Mr. Comacho stated that they increased the two large windows in front to meet the 30% rule.

Commissioner Gustofson asked about #9, the removal of the sign from the right-of-way. Brock stated that he was planning to call Newman Signs this week about relocating the sign.

Commissioner Gustofson made a motion for approval based on staff recommendations. Commissioner Smedshammer seconded the motion. No opposition. Motion carried.

The next item on the agenda was the November meeting, which will be held on Tuesday, November 13th because of the Veteran's Day holiday. Larry stated that there will be a public hearing held on the Comprehensive Plan at the meeting and copies of the revised draft comprehensive plan will be available next week.

Commissioner Gustofson made a motion to adjourn. Commissioner Nelson seconded the motion. Meeting adjourned.